10/1/2015

py of Modification application filed by UIDAI in Hon ble Supreme urt order dated 11.8.2015

Date: 09/30/15 06:00 PM

To: Sus@eci.gov.in

From: YLP Rao <ylprao@uidai.gov.in>

· Cc: Dr Ajay Pandey <ajay.pandey@uidai.net.in>

1_UIDAI_Modification_Appl_Sup_Court_Order_Dt11Aug2... (3.2MB) 2_UIDAI_Modification_Appl_Sup_Court_Order_Dt11Aug2... (3.3MB)

Dear Sri.Umesh Sinha ji,

on 23 Sept 2015, UIDAI has filed a Modification Application in the Hon'ble Supreme Court to Modify/clarify para-3 of the Court order dated 11 Aug 2015 in WP No (C) 494/2012. As directed by the DG, UIDAI, a scan copy of modification application along with enclosures is attached to this email for your kind information.

With Best Regards

Dr.Y.L.P.Rao,

Dy.D.G, UIDAI H.Q,

Deity, Govt of India,

3rd Floor, Tower-2, Jevvan Bharati Building,

Connaught Circus, New Delhi-110001.

Phone 01123752757; 011-23488816

राजन आवान/RAIAN AGA MAC अनुमाग अधिकार्ग Section micer भारतः निद्धां क्षम आद्राम Election Commission of India अशोक रोड. मई दिल्ली-110001 Ashoka Rosa, N. Delhi-110001

IN THE SUPREME COURT OF INDIA CIVIL ORIGINAL JURISDICTION I.A No. OF 2015

IN

WRIT PETITION (CIVIL) NO. 494 OF 2012

IN THE MATTER OF:

JUSTICE K.S PUTTASWAMY (RETD.).

& ANR

... Petitioners

VERSUS.

UNION OF INDIA & ORS.

... Respondents

AND IN THE MATTER OF:

Unique Identification Authority of India (UIDAI)
Department of Electronics & Information Technology
Government of India
3rd Floor, Tower- II, Jeevan Bharti Building,
Connaught Circus
New Delhi - 110001

Applicant

APPLICATION FOR MODIFICATION / CLARIFICATION OF INTERIM ORDER DATED 11-08-2015

TRUE CERTIFIED COPY

राजन अप्रवात/RA/AN/ACA: WME अनुसाम अप्रिकारी/Section Officer भारत निर्दारण आयोग Election Commission of India अशोक रोज महाद्वाची 110001 Asnova Rone, N. Delhi-110001 PAPER-BOOK

(FOR INDEX, PLEASE SEE INSIDE)

ADVOCATE FOR THE RESPONDENTS: MANISH VASHISHTHA

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der	Application for Modification / Clarification of the interim order dated 11-08-2015 with Affidavit	1 to 22
2.	Annexure –R/1 True copy of the Order of Hon'ble Supreme Court dated 11-08-2015	23 to 38
3.	Annexure – R/2 A true copy of the Exhaustive list of Welfare Schemes	39 to 42
4.	Annexure ~ R/3 Copy of the Interim Order of the Hon'ble Supreme Court dated 23-09-2013.	43 to 44
5.	Annexure – R/4 True copy of the Interim Order of the Hon'ble Supreme Court dated 16-03-2015	45 to 50
5.	Annexure – R/5 True Copy of the Order of the Hon'ble Supreme Court dated 24-03-2015 in SLP (Cr) 2524 of 2014	51 to 52.

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बिका अग्रवात/RAIAN AGARWAL
अनुमा अग्रिकारी/Section Officer
भारत निर्धायन आयोग
Election Commission of India
अगांक रहे नई दिल्ली-110001
Asnoka Road, N. Delhi-110001

The humble application of the Applicant above named

MOST RESPECTFULLY SHOWETH:-

- 1. That the Applicant herein is Respondent No. 3 in the abovementioned Writ Petition (Civil) 494 of 2012.
- 2. That Writ Petition (Civil) No. 494 of 2012 (Justice K Puttaswamy (Retd) v Union of India) and the connected cases have been filled challenging the constitutionality and legality of the "Aadhaar Card Scheme" on various counts.
- 3. The present Application is seeking a modification/clarification of its interim order dated 11.08.2015 ("impugned order"), the relevant portion of which is extracted hereinbelow:-

"Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger 8ench if the Union of India or the UIDA proceed in the following manner:-

- The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
- 2. The production of an Aadhaar card will not be a condition for obtaining any benefits otherwise due to a citizen;
- 3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The

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र्गुण्न अप्रवात/PAJANAGARWAL बनुभाग अधिकारी/Section Officer भारत शिवास्त्रित आयोग होट्टाश्चन Commission of India अशाक रोड. म्हे दिल्ली-110001 Agnoka Road, N. Delhi-110001 services and benefits being provided by the Government of India and like services which serve several vital purposes viz., financial inclusion, economic development and access to efficient governance. At the same time it has also brought to a stop the process of streamlining several government databases which has been undertaken to reduce corruption, cut out middlemen and deliver services efficiently to the people of India in a time-bound manner.

6. It is humbly submitted that the Aadhaar card/number is the most widely held form of identity document with the widest coverage amongst the residents/citizens. This is evident from the following table:

Identity Document	Coverage	
Passport	5,70,35,9431	
Pan Card	17 Crore (Approx.) ²	
EPIC Card	60 Crore (Approx.) ³	
Ration Card	15.17 Crore (Approx.) ⁴	
Driving License	17.37 Crore (Approx) ⁵	
Aadháar	91.68 crore	

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राजन अग्रवात/RAJAN AGARWAL अनुगान अधिकारी/Section Unicor भारत निर्देशियन आदोग Election Confirmssion of India अश्रोक रोड निर्ध दिल्ली 110001 Asnoka Road, N. Daitu-110001

¹ Source: Annual Report 2014-15, Ministry of External Affairs, Government of India.

² Source: Tax Administration Reforms Commission Report November, 2014.

³ Source: Election Commission of India website (state wise electoral rolls).

Source: Foodgrains Bulletin, July 2015, Department of Food and Public Distribution, Government of India (data for 24 States/ UTs).

Source Road Transport Year Book 2011-12, Table 4.3 (Page 78) [excluding data for the states/UTs of Bihar, Arunachal Pradesh, Jharkhand, Punjab, West Bengal, A&N Islands, Chandigarh and Dadra Nagar Haveli for which figures are not reported]

more than 87,000 banking correspondents (of banks/ India Post) who go from village-to-village/ neighbourhood-to-neighbourhood with micro-ATM devices. Those who are entitled to receive MGNREGS wages and have Aadhaar-linked bank accounts can authenticate their identity at their doorstep/ neighbourhood. This ensures that amounts are credited to their bank accounts immediately, allowing them to withdraw money with ease thereby furthering the end of financial inclusion. This saves them the trouble of going to the nearest bank, often at distances in excess of 40 km, thereby saving loss of a day's wages. Further it prevents instances of "ghost" intermediaries, i.e. fake beneficiaries from claiming wages that rightfully belong to genuine workers. Figures indicate that over 80 lakh MGNREGS workers were withdrawing their wages using Aadhaan blometric authentication every month at their doorstep/neighbourhood without middlemen and any delay. The impugned order does not permit this usage any longer causing tremendous difficulty to such residents who at the cost of back-breaking travel and loss of wages have to go to their bank branches to receive their daily wage. Therefore, it is the right to livelihood of millions of Indians, which is facilitated by Aadhaar and ought to be allowed at par with the permitted uses.

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b. National Social Assistance Programme (Old Age Pensions, Widow Pensions, Disability Pensions) Q

accounts have been opened under PMJDY. Of these over 7.01 crore individuals have presented Aadhaar as identity proof to open the accounts and link Aadhaar to their PMJDY accounts. Since PMJDY is directed primarily at BPL families and those who are financially excluded, the Aadhaar number is crucial for accessing benefits via the bank account for several social benefits and government schemes. Pertinently, three pension schemes of the Government of India, the Atal Pension Yojana (APY), the PM Suraksha Bima Yojana (PMSBY) and the PM Jeevan Jyoti Bima Yojana (PMJJBY) are in design, linked with PMJDY accounts. These schemes provide wide insurance coverage with small premiums thereby furthering the goal of financial inclusion. As an illustrative example, for PMSBY, paying a premium of Rs. 12 per annum, the insured is entitled to coverage for Rs. 2 lakh. When the Aadhaar number is linked, the claim amounts can be directly transferred to the bank accounts of the beneficiaries. This cuts out middlemen and ensures quicker transfer of funds at times of need to persons who otherwise would have no access to formal credit and insurance. The impugned order does not permit the usage of Aadhaar to open bank accounts under the PMJDY, even on a voluntary basis.

d. Jeevan Pramaan (Life Certificate)

12. At present, all pensioners, including ex-servicemen and those who might be immobile or challenged have to physically visit the

areas have to come to particular hospitals, wait in queue for long hours, despite their ill-health, and attempt to obtain an OPD card and then to book an appointment. This facility allows users anywhere in the country to use their Aadhaar number to obtain a OPD card and even book an online appointment in the hospitals that use this facility. Over 56,000 appointments have been booked using this facility so fair. This has saved persons, usually the sick and infirm, considerable time, as well as obviated the need to stand in long queues that has a deleterious effect on their already fragile health. This facility cannot be continued or extended owing to the operation of the impugned order.

f. Employees' Provident Fund Organisation (EPFO)

14. There are over 5.4 crore contributory members to the EPFO. Currently, when employees change companies, multiple PF accounts, which are not linked to each other, are created. It is onerous to withdraw money from these accounts as they may be situated in different locations, in several cities. Due to this, deposits in several PF accounts remain unclaimed as the process for withdrawal is time-consuming and inconvenient, The linkage of Aadhaar numbers with PF accounts provides employees with a lifelong Universal Access Number (UAN) which is a Unique Identifier. Using the UAN, employees can make a single application irrespective of location to the relevant authority for withdrawal. All PF accounts also have overarching linkage thereby making it easier for the person to

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TION SHREET/RAJAN AGARWAL

राजन आवान/RAJAN AGARWAL जनुभाग आधिकारी/Section Officer भोजन्स निर्धाचन आसीन्य Election Commission of India आरोक होत्र, नई दिल्ली-110001 PDS and LPG schemes, the schemes and facilities aforementioned, viz. MGNREGS, pension schemes, disability pensions, EPFO which are Aadhaar-linked, equally allow access to rights contained in Article 21 of the Constitution itself. The right to work, right to receive old age pension or disability pension cannot be considered in anyway to be inferior to the right to food since often the former is an enabler of the latter right and are all found within the content of Article 21 of the Constitution. Therefore, if this Hon'ble Court could allow the Government to implement the PDS and LPG Schemes through the Aadhaar platform, there is no reason why Aadhaar should not be allowed for these other equally important schemes on a purely voluntary basis.

ensuring that the various benefits, subsidies and services being offered by the State should reach the intended beneficiary and not to fakes and duplicates, which proliferate in the system leading to loss of thousands of crores of rupees of public money. The uniqueness of Aadhaar helps in elimination of duplicates and fakes from any beneficiary database leading to immense savings through reduction of leakages and wastages. In a recent article in the New York Times, Siddharth George and Arvind Subramanian write,

"The Indian government subsidizes households' purchases of cooking gas; these subsidies amounted to about \$8 billion last

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राजन अग्रवाल/RAIAN AGARWAL अनुसार अधिकारी/Section Officer भार्चर निर्वाचन अग्रवीम Election Commission of India अभोक राष्ट्र नह दिस्सी-110001 अक्टबेंट्र Road, N. Deith-110001 MGNREG scheme worker. A detailed table below shows the type of bogus workers who were enrolled in the MGNREG scheme database collected from respective State Governments:

Type of Bogus workers	AP	Telangana	Total
Dead person	155179	118754	2,73,933
Name exists in other job card	67569	23210	90,779
Migrated (not present in village)	588086	221189	8,09,275
Double Job Card	62060	42677	1,04,737
Total 'bogus' database	872894	405830	12,78,724
Total workers	20416000	15490000	3,59,06,000

- Similarly in a study conducted in 2 districts of West Bengal, it was found that the percentage of bogus workers has been estimated at around 15% of the total number of workers who are reported to have worked.
- 20. The benefits accrued from seeding of beneficiaries' Aadhaar number into the database of various social welfare schemes has resulted in huge savings for the Government of India and elimination of duplicates from the system. A tabular chart below is illustrative of the savings on account of the Aadhaar Scheme collected from respective State Governments:

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Achond Road, N. Delhi-11000

- Court, by which it has always maintained that Aadhaar and its associated services/benefits can only be used on a voluntary basis without making it mandatory or compulsory and that no one should be denied of any benefits or services for want of the Aadhaar Card. Therefore, this Hon'ble Court has always underlined the principle of consent and voluntariness respecting individual choice and autonomy while balancing the interests of the petitioners as well as those teeming crores of citizens and residents of India who have voluntarily sought for the Aadhaar card/number for easy and convenient availability of a host of social services and benefits, discussed earlier. There is no reason of law or convenience that warrants a departure from this position. This is evident from the interim orders passed
- 23. This Hon'ble Court in its order dated 23.09.2013 was pleased to direct as follows:-

from time to time.

"In the meanwhile, no person should suffer for not getting the Adhaar card in spite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Adhaar Card **voluntarily**, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

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राजन अप्रवात/RAJANAGARAN. अनुमाग अधिकारी/Section Efficie भारपेक निर्योध्यम आयोग Election Commission of India अभोक रोड, नई दिक्सी 110001 Ashdaa Road, N. Delni-110001 forms/circulars/likes so as to <u>not compulsorily require the</u>

<u>Aadhaar number</u> in order to meet the requirement of the interim order passed by this Court forthwith."

[Copy of the interim order dated 24.03.2014 is marked and attached as Annexure- R/5] (Rag = 51-52)

- 26. In the interim order dated 11.08.2015, in spite of the Petitioner's plea, this Hon'ble Court did not stop the process of enrolment of residents into Aadhaar on a voluntary basis. The same principle ought to be extended to use of Aadhaar for social welfare schemes and services as well. This proposition simply involves giving an individual the option of using an Aadhaar-linked service in order to authenticate his/her identity. The identity of the individual having been duly authenticated the service provider can proceed to provide the said service. Thus in relevant part, giving an individual such an option is analogous to permitting an individual to access and use his/her own information as he/ she chooses.
- 27. Further, there is no credible apprehension of breach of privacy if this were to be permitted. In light of the submission of the Ld. Attorney General for India that no biometric information of the Aadhaar card holder is shared, the Court noted,

"The learned Attorney General stated that the respondents do not share any personal information of an Aadhaar card holder

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अप्रतान क्षिकार करण आयोग Election Commission of India
उत्पोक शंड, लड़ दिल्ली 116001 Aspoka Road, N. Delhi-110001 question of their right to privacy being affected or violated in any way does not arise.

<u>PRAYER</u>

30. In light of the above legal and factual submissions, it is, therefore, prayed that this Hon'ble Court may be pleased to clarify or modify its order dated 11.08.2015 to allow the Aadhaar number/card to be used not only for the PDS Scheme and LPG Distribution Scheme but also for any social benefit scheme or service of the Government of India, State Governments or like services based on resident consent to enable those who are enrolled/enrolling on a voluntary basis to avail of the services and benefits of Aadhaar, as outlined above and pass such other and further orders as this Hon'ble Court may deem fit and proper.

Drawn by

Filed by

Rajan Hyann

राजन आवान RAIAN AGARWAL अनुभाग श्रीकोशी/Section Officer भारत शिक्षेत्रम आयोग Election Cohumission of India असाक रोड़ी गई दिस्ती 110001 Asnoka Road, N. Delh-110001 **ZOHEB HOSSAIN**

Advocate

Mr. Manish Vashishtha

Advocate for the Applicant

Filed on:- 23.09.2015 New Delhi the same. I state that the facts stated in the Present Application are true based on the records maintained by the Applicant.

 That the Annexures filed alongwith the present Application are the true copies of their respective originals.

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VERIFICATION:

I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 3 of my above affidavit are true to my knowledge, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 23rd day of September,

2015.

Rajondra Kumar
Deihi
Regd, No. 5780
Oalo of Explry
27th April-2018

DEPONENT

रिनी साहा I REENA SAHA
समस्य नामेश्वास स्वयंक्रात देवका देवका भारतीय विशिष्ट पहचाल प्राधिकारण Unique Rentification Authority of India का यह का को देवनाका का का का का का का

ATTESTED

RAJENDRA KUMAR
NOTARY, DELHI-R-87DO
GOVERNMENT OF INDIA
SUPREME COURT OF INDIA
COMPOUND, NEW DELHI
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CERTIFIED THAT THE CONTENTS EXPLAINED TO THE DEPONENT EXECUPANT WHO IS SEEMED PERFECT TO UNDERSTAND A AFFIRMED DEPOSED BEFORE HE AT DELHT OR HEAT DELHT OR H

TOEMPY THE EXECUTATION PORTY WHO HAS SIGNED IN MY PRESENCE!

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Annexure-R/1

REPORTABLE

in the supreme court of india

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO.494 OF 2012

Justice K.S. Puttaswamy (Retd.) & Another

Petitioners

Versus

Union of India & Others

Respondents

WITH

TRANSFERRED CASE ICIVILI NO.151 OF 2013

TRANSFERRED CASE (CIVIL) NO.152 OF 2013

WRIT PETITION (CIVILI NO.829 OF 2013

WRIT PETITION (CIVIL) NO.833 OF 2013

WRIT PETITION (CIVIL) NO.932 OF 2013

TRANSFER PETITION (CIVIL) NO.312 OF 2014

TRANSFER PETITION (CIVIL) NO.313 OF 2014

WRIT PETITION (CIVIL) NO.37 OF 2015

WRIT PETITION (CIVIL) NO.220 OF 2015

TRANSFER PETITION (CIVIL) NO.921 OF 2015

CONTEMPT PETITION (CIVIL) NO.144 OF 2014 IN WPICI 494/2012

CONTEMPT PETITION (CIVIL) NO.470 OF 2015 IN WPICE 494/2012

ORDER

अव्यक्त/RAJAN AGARWAL अधिकानी/Section Office अ निकार ध्यान आयोग jon Commission of India रोड, नई दिल्ली 110001 ka Road, N. Delhi-110001

1. In this batch of matters, a scheme propounded by the Government of India popularly known as "Aadhaar Card Scheme" is under attack on various counts. For the purpose of this order, it is necessary for us to go into the details of the nature of the scheme

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in a jurisprudentially impermissible divergence of judicial opinions.

"A power of search and scizure is in any system of jurisprudence an overriding power of the State for the protection of social security and that power is necessarily regulated by law. When the Constitution makers have thought fit not to subject such regulation to constitutional limitations by recognition of a fundamental right to privacy, analogous to the American Fourth Amendment, we have no justification to import it, into a totally different fundamental right, by some process of strained construction. [See: M.P. Singh & Others v. Satish Chandra & Others, AIR 1954 SC 300, page 306 para

"... Nor do we consider that Art. 21 has any relevance in the context as was sought to be suggested by learned counsel for the petitioner. As already pointed out, the right of privacy is not a guaranteed right under our Constitution and therefore the attempt to ascertain the movement of an individual which is merely a manner in which privacy is invaded is not an infringement of a fundamental right guaranteed by Part III." [See: Kharak Singh v. State of U.P. & Others, AIR 1963 SC 1295, page 1303 para 20]

[Emphasis supplied]

- 4. Learned Attorney General submitted that such impermissible divergence of opinion commenced with the judgment of this Court in Gobind v. State of M.P. & Another, (1975) 2 SCC 148, which formed the basis for the subsequent decision of this Court wherein the "right to privacy" is asserted or at least referred to. The most important of such cases are R. Rajagopal & Another v. State of Tamil Nadu & Others, (1994) 6 SCC 632 (popularly known as Auto Shanker's case) and People's Union for Civil Liberties (PUCL) v. Union of India & Another, (1997) 1 SCC 301.
- 5. All the judgments referred to above were rendered by smaller Benches of two or three Judges.
- 6. Shri K.K. Venugopal, learned senior counsel appearing for one of

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8. On behalf of the petitioners Shri Gopal Subramanium and Shri Shyam Divan, learned senior counsel very vehemently opposed the suggestion that this batch of matters is required to be heard by a larger bench. According to them:

(i) The conclusions recorded by this Court in R. Rajagopal and PUCL are legally tenable for the reason that the observations made in M.P. Sharma regarding the absence of right to privacy under our Constitution are not part of ratio decidendi of that case and, therefore, do not bind the subsequent smaller Benches.

(ii) Coming to the case of Kharak Singh, majority in Kharak Singh did hold that the right of a person not to be disturbed at his residence by the State and its officers is recognized to be a part of a fundamental right guaranteed under Article 21 which is nothing but an aspect of privacy. The observation in para 20 of the majority judgment at best can be construed only to mean that there is no fundamental right of privacy against the State's authority to keep surveillance on the activities of a person. Even such a conclusion cannot be good law any more in view of the express declaration made by a seven-Judge bench decision of this Court in Maneka Gandhi v. Union of India & Another, (1978) 1 SCC 2483.

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राहत अप्राचन/RAJAN AGARWAL अनुवान करिकारी/Section Officer भार हो निकारिकन आयोग Election Commission of India अभाग के नहें दिल्ली 110001 Ashoka Road, N. Dehn-110001 necessary for the disposal of the appeal, such Court shall refer the question for opinion to a Court constituted as required by this clause for the purpose of deciding any case involving such a question and shall on receipt of the opinion dispose of the appeal in conformity with such opinion

Para 5... It was in Kharak Singh v. State of U.P., AIR 1963 SC 1295 that the question as to the proper scope and meaning of the expression 'personal liberty' came up pointedly for consideration for the first time before this Court. The

PUCL (supra), the Benches were more categoric in asserting the existence of "right to privacy". While R. Rajagopal's case held that the "right to privacy" is implicit under Article 21 of the Constitution, PUCL's case held that the "right to privacy" insofar as it pertains to speech is part of fundamental rights under Articles 19(1)(a) and 21 of the Constitution.

11. Elaborate submissions are made at the bar by the learned counsel for the petitioners to demonstrate that world over in all the countries where Anglo-Saxon jurisprudence is followed, 'privacy' is recognised as an important aspect of the liberty of human beings. It is further submitted that it is too late in the day for the Union of India to argue that the Constitution of India does not recognise privacy as an aspect of the liberty under Article 21 of the Constitution of India. At least to the extent that the right of a person to be secure in his house and not to be disturbed unreasonably by the State or its officers is

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Para 9. "Right to privacy is not connecrated as a fundamental right in our Constitution but has been inferred from Article 21."

Para 18. "The right to privacy — by itself — has not been identified under the Constitution. As a concept it may be too broad and moralistic to define it judicially. Whether right to privacy can be claimed or has been infringed in a given case would depend on the facts of the said case. But the right to hold a telephone conversation in the privacy of one's known or office without interference can certainly be claimed as "right to privacy." Conversations on the telephone are often of an intimate and confidential character. Telephone conversation is a part of modern man's life. It is considered to important that more and more people are carrying mobile telephone instruments in their pockets. Telephone conversation is an important facet of a man's private life. Right to privacy would certainly include telephone conversation in the privacy of one's home or office. Telephone-tapping would, thus, infract Article 21 of the Constitution of India unless it is permitted under the procedure established by law.

^{19.} Right to freedom of speech and expression is guaranteed under Article 19(1)(a) of the Constitution. This freedom means the right to express one's convictions and opinions freely by word of mouth, writing, printing, picture, or in any other manner. When a person is talking on telephone, he is exercising his right to freedom of speech and expression. Telephone-tapping unless it comes within the grounds of restrictions under Article 19(2) would infract Article 19(1)(a) of the Constitution.

controversy raised in this batch of cases once for all, it is better that the ratio decidendi of M.P. Sharma (supra) and Kharak Singh (supra) is scrutinized and the jurisprudential correctness of the subsequent decisions of this Court where the right to privacy is either asserted or referred be examined and authoritatively decided by a Bench of appropriate strength.

14. We, therefore, direct the Registry to place these matters before the Hon'ble the Chief Justice of India for appropriate orders.

J. Chelames	
(S.A. Bobde)	,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,

(C. Nagappan)

New Delhi August 11, 2015

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ORDER

Having regard to importance of the matter, it is desirable that the matter be heard at the earliest,

(J. C	helameswar))
{S.A.	Bobde)	······································
(C. N	lagappan)	J.

New Delhi August 11, 2015

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Again Again Against Section interest therefore a straint for the interest there is no finding straint in its interest to the section of the interest to t

All the matters require to be heard finally. List all matters for final hearing after the Constitution Bench is over.

In the meanwhile, no person should suffer for not getting the Aadhaar card inspite of the fact that some authority had issued a circular making it mandatory and when any person applies to get the Andhaar card voluntarily, it may be checked whether that person is entitled for it under the law and it should not be given to any illegal immigrant."

It was submitted by Shri Shyam Divan, learned counsel for the petitioners that the petitioners having pointed out a serious breach of privacy in their submissions, preceding the reference, this Court may grant an injunction restraining the authorities from proceeding further in the matter of obtaining biometrics etc. for an Aadhaar card. Shri Shyam Divan submitted that the biometric information of an individual can be circulated to other authorities or corporate bodies which, in turn can be used by them for commercial exploitation and, therefore, must be stopped.

The learned Attorney General pointed out, on the other hand, that this Court has at no point of time, even while making the interim order dated 23.9.2013 granted an injunction restraining the Unique Identification Authority of India from going ahead and obtaining biometric or other information from a citizen for the purpose of a Unique Identification Number, better known as "Aadhaar card". It was further submitted that the respondents have gone ahead with the project and have issued Aadhaar cards to

respondent Union of India would ensure that Aadhaar cards would only be issued on a consensual basis after informing the public at large about the fact that the preparation of Aadhaar card involving the parting of biometric information of the individual, which shall however not be used for any purpose other than a social benefit schemes.

Having considered the matter, we are of the view that the balance of interest would be best served, till the matter is finally decided by a larger Bench if the Union of India or the UIDA proceed in the following manner:-

- 1. The Union of India shall give wide publicity in the electronic and print media including radio and television networks that it is not mandatory for a citizen to obtain an Aadhaar card;
- 2. The production of an Aadhaar card will not be condition for obtaining any benefits otherwise due to a citizen;
- 3. The Unique Identification Number or the Aadhaar card will not be used by the respondents for any purpose other than the PDS Scheme and in particular for the purpose of distribution of foodgrains, etc. and cooking fuel, such as kerosene. The Aadhaar card may also be used for the purpose of the LPG Distribution Scheme;

4. The information about an individual obtained by the Unique

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Annexure - 8/2

List of Welfare Schemes

- A. Subsidy Schemes
 - 1. LPG (PAHAL)
 - 2. Kerosene
 - 3. Fertilizers
 - 4. Food (Public Distributing system)

B. Name of the scheme

- 1. Aam Aadmi Bima Yojana (AABY) Claims
- 2. Artists Pension Scheme
- 3. BSR Doctoral Fellowship in Sciences
- 4. Conditional Cash Transfer Scheme for the Girl Child with Insurance Cover (Dhanalaskhmi)
- 5. Dhanalaskshi scheme
- 6. Or D.S. Kothari post Doctoral Fellowship
- 7. Dr. S. Radhakrishnan post-doctoral Fellowship in Humanities & Social Sciences (including Languages)
- 8. Emeritus Fellowship
- 9. Fellowship schemes of UGC.
- 10. Fellowship schemes of AICTE.
- 11. FW Linked Health Insurance Plan
- 12. Grants to NABARD for Women's Self-Help Groups (SHGs) Development Fund

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- 33. National Afforestation Programme (National Mission for a Green India)
- 34, National Crop Insurance Programme (NCIP)
- 35. National means for incentive for the girl child for secondary education.
- 36. National Means cum Merit Scholarship
- 37. National Scheme for Welfare of Fishermen
- 38. National Scholarship Schemes
- 39. National Skill Certification and Monetary Reward Scheme
- 40. National Social Assistance Programme (NSAP)
- 41. National Social Security Fund for Unorganized Sector Workers
- 42. Payment of Stipend to Trainees under the Scheme of Skill Development in 34 Districts affected by Left Wing Extremism (LWE).
- 43. Pension to Meritorious Sportspersons
- 44. Post Doctoral-Fellowship for Women
- 45. Post Matric Scholarship for DBCs.
- 46. Post Matric scholarship for SC Students.
- 47. Post-matric Scholarship Scheme for ST students
- 48. Pradhan Mantri Jan Dhan Yojana (PMIDY)
- 49. Pre-Matric Scholarship for SC Students
- 50. Prime Minister's Employment Generation Programme (PMEGP)
- 51. Pre-Matric Scholarship for Children of those engaged in unclean occupations.
- 52. Project Tiger

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